THE HON'BLE SRI JUSTICE V. ESWARAIAH

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WRIT PETITION No.27789 of 2005

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Dated: 04-01-2006

Between:

P. Nagamalleswara Rao

… Petitioner

a n d

1. The District Collector (Panchayat Wing), Guntur and others.

… Respondents

THE HON'BLE SRI JUSTICE V. ESWARAIAH

-

WRIT PETITION No.27789 of 2005

ORDER:

The District Panchayat Officer, Guntur, by his proceedings in Roc.No.6983/2004-G1 dated 08-06-2005, after issuing a show cause notice and after considering the explanation, prohibited the petitioner provisionally from drawing the moneys of the panchayat.

2. A learned Judge of this Court in W.P.No.22696 of 2005 by his order dated 07-11-2005 held that under Rule 42 of the Rules framed under G.O.Ms.No.30, Panchayat Raj & Rural Development & Relief Department, dated 20.01.1995, hereinafter called as "the Rules", the District Panchayat Officer is entitled to prohibit any executive authority from drawing the moneys of the Gram Panchayat for such period as may be specified in the order after giving a reasonable opportunity and that the Sarpanch of a Gram Panchayat is not an Executive Authority. 'Executive Authority' means the Panchayat Secretary appointed to each Gram Panchayat as amended by Act 22 of 2002. No doubt, prior to the amendment by Act 22 of 2002, 'Executive Authority' means in the case of a gram panchayat or a group of gram panchayats having an executive officer, the executive officer, and if there is no executive officer in charge, the Sarpanch of the gram panchayat and in the case of any other gram panchayat, the Sarpanch thereof. But, after the amendment the 'Executive Authority' means only the Panchayat Secretary appointed to the Gram Panchayat. Therefore, there is no power for the District Panchayat Officer to withdraw the cheque power in favour of the Sarpanch.

3. The learned Government Pleader for respondents filed a notification showing that Government amended the Rules 41 and 42 of the Rules empowering the District Panchayat Officer in prohibiting the Sarpanch from withdrawing the moneys of the Gram Panchayat. Admittedly, the said notification was published in G.O.Ms.No.444 Panchayat Raj & Rural Development (PTS-III) Department, dated 29-12-2005, whereas the impugned order was passed prior to the said amended rule.

4. Therefore, I am of the opinion that there is lack of power on the part of the District Panchayat Officer in prohibiting the Sarpanch from drawing the funds of the Gram Panchayat.

5. The writ petition is accordingly allowed and the impugned order is set aside. However, it is open for the authorities to take action under Section 249(6) of the A.P.Panchayat Raj Act, 1994. No order as to costs.

04-01-2006

cvrk

Note: Office to issue C.C.

by tomorrow.

B/o

Cvrk